

SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	December 28, 2016, 1:15-1:30 a.m., [REDACTED], Chicago, Illinois
Date/Time of COPA Notification:	January 1, 2017, 9:01 p.m.
Involved Officer #1:	[REDACTED], star # [REDACTED], employee ID# [REDACTED], Date of Appointment: [REDACTED], 1999, PO, Unit [REDACTED], DOB: [REDACTED] 1969, Male, Hispanic
Involved Officer #2:	[REDACTED], star # [REDACTED], employee ID# [REDACTED], Date of Appointment: [REDACTED], 2016, PO, Unit [REDACTED], DOB: [REDACTED], 1991, Female, Asian Pacific Islander
Involved Individual #1:	[REDACTED], DOB: [REDACTED] 1992, Agender, White
Involved Individual #2:	[REDACTED], DOB: January 1, 1990, Female, White
Involved Individual #3:	[REDACTED], DOB: July 23, 1987, Female, White
Case Type:	Excessive Force – Injury

I. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED]	<p>It is alleged that on December 28, 2016, in the vicinity of [REDACTED], at approximately 1:38 a.m., you:</p> <ol style="list-style-type: none"> 1. took [REDACTED] to the ground without justification; 2. used knees to restrict [REDACTED]'s airway; 3. applied unnecessary pressure to [REDACTED] [REDACTED]'s arm and back; and 4. failed to inventory [REDACTED]'s black tote bag and its contents. 	Not Sustained Not Sustained Not Sustained Not Sustained
Officer [REDACTED]	<p>It is alleged that on December 28, 2016, in the vicinity of [REDACTED], at approximately 1:38 a.m., you:</p> <ol style="list-style-type: none"> 1. used knees to restrict [REDACTED]'s airway; and 	Not Sustained

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

2. applied unnecessary pressure to [REDACTED] [REDACTED]'s arm and back	Not Sustained
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II. SUMMARY OF EVIDENCE²

On December 28, 2016, [REDACTED] ("[REDACTED]")³ and friends, including [REDACTED] ("[REDACTED]") and [REDACTED] ("[REDACTED]") were drinking at [REDACTED] Bar. At approximately 1:00 a.m., [REDACTED] and friends were asked to leave [REDACTED] Bar by staff following a physical altercation between [REDACTED] and another bar patron. While exiting the bar, [REDACTED] punched [REDACTED], [REDACTED]'s security guard, in the face.⁴ [REDACTED] ("[REDACTED"]"), [REDACTED] Bar's manager, called the police.⁵ When police officers arrived on scene, [REDACTED]s friends spoke with the officers and the situation quickly escalated into a physical altercation resulting in the arrests of [REDACTED], [REDACTED] and [REDACTED].⁶

According to [REDACTED], she was recording the incident on a cell phone,⁷ approximately 6-8 feet away, when Officer [REDACTED] ("Officer [REDACTED]") took the phone. Then [REDACTED] was taken to the ground by 3-4 officers.^{8,9} Officer [REDACTED] did not recall whether [REDACTED] had a cell phone or whether he did anything with the cell phone. Officer [REDACTED] stated [REDACTED] was aggressive, verbally abusive, got physical in an attempt to "defeat the arrest" of [REDACTED] including punching him near his eye.¹⁰ Officers [REDACTED] and [REDACTED] ("Officer [REDACTED]") stated they had a hold of [REDACTED]'s arms when [REDACTED] went to the ground.¹¹ [REDACTED] and Officer [REDACTED] indicated [REDACTED] fell backwards, landing on her backside.¹² Officer [REDACTED] performed an emergency takedown using an armbar on [REDACTED].¹³

While on the ground, [REDACTED] attempted to kick free of the officers.¹⁴ According to [REDACTED], officers knelt around her head and with their knees squeezing [REDACTED]'s throat. They also applied pressure to [REDACTED]'s arms and back, limiting her breathing.¹⁵ [REDACTED] provided

²COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases opened under IPRA are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

³ [REDACTED].

⁴ Attachments 4,5,8, 10, 17, 36, 39.

⁵ Attachment 26.

⁶ Attachments 4,5,8, 10, 14, 17-21, 26, 36, 38, 39, 44.

⁷ [REDACTED] stated when the cell phone was returned the video of the incident had been deleted. See Attachment

⁸ COPA identified Officer [REDACTED] and Officer [REDACTED].

⁹ Attachments 4, 5, 8, 14.

¹⁰ Officer [REDACTED] stated the punch caused his eye to bleed days later causing him to seek medical attention.

Attachment 38. COPA subpoenaed the Chicago Police Department ("CPD") for Officer [REDACTED]'s medical records stemming from this incident. CPD responded there was no Injury on Duty report for Officer [REDACTED] on December 28, 2016. See Attachment 48.

¹¹ Attachments 38, 44.

¹² Attachments 28, 38.

¹³ Attachments 15, 19, 39.

¹⁴ Attachments 4, 5, 8, 14.

¹⁵ Attachments 4, 5, 8, 14.

medical records and photographs representing injuries incurred during the struggle.¹⁶ Officers [REDACTED] and [REDACTED] admitted they were kneeling next to [REDACTED] but denied being near or squeezing [REDACTED]'s throat. Neither officer could remember specific actions they took to control [REDACTED]. Both officers indicated [REDACTED] was actively resisting arrest, belligerent, and verbally abusive, during the incident and that police response was proportional.¹⁷ Officer [REDACTED] stated he and Officer [REDACTED] flipped [REDACTED] over. Officer [REDACTED] stated he did not want to hurt [REDACTED], and if he had mirrored [REDACTED]'s force then his force would have been excessive. Department Reports, including [REDACTED]'s mug shot, do not document any type of injury to [REDACTED] or complaints of any injury by [REDACTED]. Officer [REDACTED]'s Office Battery Report documented he received minor injury.¹⁸

[REDACTED], [REDACTED], and [REDACTED] were transported to District 019 Police Station and processed. [REDACTED] alleged her personal items were taken that night and not returned. [REDACTED] indicated some of the items were found in [REDACTED] and [REDACTED]'s belongings, but [REDACTED] is still missing a canvass tote, 2 jackets, keys and various personal items. Officer [REDACTED] stated it was a chaotic scene, and he does not recall what items [REDACTED] possessed. Officer [REDACTED] stated he inventoried everything he recovered.

III. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal

¹⁶ Attachments 13, 14. Medical records indicate bruising to the left side of the face, shoulder, elbow and wrist; abrasion on the left shoulder, and a small bruise on the right leg. Attachment 13.

¹⁷ Attachments 38, 44.

¹⁸ Attachment 19.

offense. See *e.g.*, *People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.” *Id.* at ¶ 28.

IV. ANALYSIS AND CONCLUSION

COPA finds the allegation that Officer [REDACTED] took [REDACTED] to the ground without justification is **Not Sustained** because there is insufficient evidence to determine whether Officer [REDACTED] took [REDACTED] to the ground or what [REDACTED] was doing at the time she went to the ground. According to General Order G03-02-01 the primary objective of the use of force is to ensure control of an individual with the reasonable force necessary based on the totality of the circumstances. An officer may perform a “takedown,”¹⁹ when an individual is an active resister, attempting to avoid physical control or defeat the arrest.²⁰

[REDACTED] stated, while recording, from a distance, the arrest of [REDACTED] on a cell phone, 3-4 officers, without explanation, took her to the ground. On the contrary, Officer [REDACTED] stated he engaged with [REDACTED] because [REDACTED] was attempting to defeat the arrest of [REDACTED], and actively resisted Officer [REDACTED]’s attempt to gain control, including punching him in the face. Officer [REDACTED] could not recall why Officer [REDACTED] first approached [REDACTED] but agreed [REDACTED] was an active resister.

Officer [REDACTED] could not recall how [REDACTED] got to the ground. [REDACTED] and Officer [REDACTED] indicated [REDACTED] fell backwards, landing on [REDACTED]’s backside. Department Reports documented [REDACTED] was swinging arms in an attempt to resist arrest, and Officer [REDACTED] performed an emergency takedown in order to place [REDACTED] into custody. There were no independent witness statements or video to corroborate the incident as described by [REDACTED] or Officer [REDACTED]. Therefore, there is insufficient evidence to determine whether Officer [REDACTED] took [REDACTED] to the ground without justification.

COPA finds the allegation that Officers [REDACTED] and [REDACTED] (the “officers”) used their knees to restrict [REDACTED]’s airway is **Not Sustained** because there is insufficient evidence to determine whether any officer restricted [REDACTED]’s breathing with their knees, or at all. [REDACTED] alleged the officers performed the action of squeezing her throat with their knees. The officers denied it. There were no witness statements or video to corroborate the incident as described by [REDACTED] or the officers. Neither the Department Reports or [REDACTED]’s medical records document any bruising or injury to [REDACTED]’s neck area. Therefore, there is insufficient evidence to determine whether Officer [REDACTED] or Officer [REDACTED] used their knees to restrict [REDACTED]’s airway.

COPA finds the allegation that Officers [REDACTED] and [REDACTED] applied unnecessary pressure to [REDACTED]’s arm and back is **Not Sustained** because there is insufficient evidence to determine whether any officer applied such pressure without justification. An officer may use compliance techniques, including applying pressure point techniques to pressure sensitive areas of

¹⁹ “The act of directing a subject to the ground to limit physical resistance, prevent escape, or increase the potential for controlling the subject.” G03-02-01 IV.B.2.c(3).

²⁰ General Order G03-02-01 IV.B.2.

the body to gain control of a passive resister, an individual who is not complying with verbal direction, or an active resister, as defined above.

Here [REDACTED] and the officers agreed that [REDACTED] was actively resisting arrest while on the ground. [REDACTED] alleged an officer applied pressure to [REDACTED]'s arm and back. Officer [REDACTED] and Officer [REDACTED] did not recall whether they applied any pressure but believed any force used was necessary and reasonable under the circumstances. Here, Officer [REDACTED] and [REDACTED] would have been allowed to apply pressure to certain areas, including [REDACTED]'s back or arm, in an attempt to force compliance and allow the officers to handcuff [REDACTED]. However, neither officer admitted to applying pressure to [REDACTED]'s arm and back, and neither officer admitted to seeing the other officer apply such pressure. There were no independent witness statements or video to provide any further detail. Therefore, there is insufficient evidence to determine whether Officer [REDACTED] or Officer [REDACTED] applied unnecessary pressure to [REDACTED]'s arm and back.

COPA finds the allegation that Officer [REDACTED] failed to inventory [REDACTED]'s black tote bag and its contents is **Not Sustained** because there is insufficient evidence. Arresting officers will inventory all personal property in possession of the arrestee except those items accepted by lockup personnel.²¹ [REDACTED] alleged some items had been improperly inventoried with [REDACTED] and [REDACTED]'s items, but many personal items were missing and never inventoried. Officer [REDACTED] stated the scene was chaotic, there were multiple arrests, and he cannot recall all the items that were recovered and processed. However, Officer [REDACTED] was certain that any items he recovered from the scene of [REDACTED]'s were inventoried. Inventory Sheets documented Officer [REDACTED] recovered and inventoried items identified as [REDACTED]'s property. However, there were no witness statements or video to determine whether [REDACTED] possessed the items that are alleged missing or whether Officer [REDACTED] did not inventory all items he recovered from [REDACTED]. Therefore, there is insufficient evidence to determine whether Officer [REDACTED] failed to inventory [REDACTED]'s black tote bag and its contents.

Approved:

Date

Deputy Chief Administrator – Chief Investigator

Appendix A

²¹ Special Order S07-01-01 III.A.

Assigned Investigative Staff

Squad#:	[REDACTED]
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	[REDACTED]